

REMARKS

Claims 1-17 are pending in the present application.

The Office Action requires the Applicants to elect a single species from asserted Groups/Species 1-5, each Group/Species being associated with a separate figure of Applicants' disclosure. Applicants provisionally elect, with traverse, to prosecute claims corresponding to Group/Species 1, including at least Claims 1-12 and 17 readable thereon.

As a preliminary matter, Applicants note that Figure 5 is erroneously listed as a separate Group/Species. It is respectfully submitted that this grouping is erroneous in light of the discussion in Applicants' specification at page 3, lines 1-7 and at page 4, lines 16-17.

Applicants respectfully request the withdrawal of the election of species requirement. The basis for Applicants' traversal is found at least at MPEP § 803, describing the two criteria for a proper requirement for restriction. *See also* MPEP §§ 808 and 808.01. In particular, Applicant's traversal is based on two distinct grounds, either one of which demonstrates that the requirement is improper: (1) the Office Action fails to provide any reasons or examples to support its conclusions of independence or distinctness; and (2) the Office Action fails to establish that examination of the entire application would place a serious burden on the Examiner.

First, the Office Action fails to provide reasons, support, and/or examples to support the stated conclusions for requiring an election among Groups/Species.

Specifically, the listing of asserted Groups/Species 1-5 provides no basis for the identification or assertion of independent or distinct species. Applicants note that MPEP § 803 explicitly directs that “Examiners must provide reasons and/or examples to support conclusions.” *See also* MPEP § 808.01. Despite this direction, no explanation beyond the conclusory listing of asserted Group/Species 1-5 is provided.

Therefore, without even a suggestion of a reason or support for asserting Group/Species 1-5, it is respectfully submitted that the requirement for election is insufficiently supported and therefore improper.

Second, the Office Action fails to assert or otherwise establish that examination of the entire application would place a serious burden on the Examiner.

Specifically, the MPEP notes that “if the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits” (MPEP § 803, emphasis added). Despite this direction, the Office Action is simply silent with regard to the issue of burden. Neither an explicit statement nor suggestion by implication is made regarding any burden on the Examiner to examine all pending claims.

Accordingly, Applicants respectfully assert that the Office Action fails to establish or provide a prima facie showing that examination of all active claims would place a serious burden on the Examiner.

In view of the above remarks, reconsideration and withdrawal of the election of species requirement and examination of all claims is earnestly solicited.

Respectfully submitted,



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